IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

MONDAY, THE TWENTY EIGHTH DAY OF JUNE
TWO THOUSAND AND FOUR

PRESENT
THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 10666 of 2004

Between:
1 Nadimpalli Satyanarayana Raju, S/o Venkatarama Raju,
R/o Mogallu Village, Palakoderu Mandal,
West Godavari District.
2 Nadimipalli Kasiviswanadha Raju, S/o Venkatarama Raju,
R/o Mogallu Village, Palakoderu Mandal,
West Godavari District. .....
PETITIONERS
AND
1 Sub-Inspector of Police, Palakonderu P.S., West Godavari District.
2 Nadimpali Bhavani Lakshmi, W/o Narasimharaju,
R/o Mogallu Village, Palakoderu Mandal, West Godavari District
now residing at Bhimavaram
3 Nadimpalli Narasimha Raju, S/o Venkatarama Raju,
R/o Mogallu Village, Palakoderu Mandal, West Godavari District
.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ of Mandamus, or any other appropriate Writ, Order or direction, declaring the action of the 1st respondent in interfering with the peaceful possession and enjoyment of the petitioners herein in respect of land in R.S.No.281 to an extent of Ac.2.31 Cents situated at Mogalu Village, Balakoderu Mandal, West Godavari District, at the behest of respondents 2 and 3, is wholly illegal, arbitrary, high handed and violative of principles of natural justice and violative of rights guaranteed under Art.19(1)(g) and 21 of Constitution of India and for a consequential order directing the 1st respondent not to interfere with the peaceful possession and enjoyment of the petitioners in the above said land.

Counsel for the Petitioners: MR.CH.DHANAMJAYA

Counsel for the Respondents: GP FOR HOME

The Court at the admission stage made the following ORDER :

This writ petition is filed by the petitioners aggrieved by the action of the first respondent in interfering with the petitioners' alleged possession in an extent of Ac.2.31 cents in R.S.No.281 of Mogallu village, Palakoderu Mandal, West Godavari District, at the behest of respondents 2 and 3.

2. It is stated that the petitioners and the third respondent are brothers and in the family partition the land of an extent of Ac.2.31 cents fell to the share of the petitioners while the tiled house fell to the share of the third respondent. But, however, the second respondent has come up with a false Suit claiming that the property in question was given under a Will to her by her mother-in-law, who is the mother of the petitioners and the third respondent, and obtained an ex parte interim injunction during the vacation to the Court and sought to interfere with the possession of the petitioners.

3. According to the learned counsel for the petitioners, the respondents are not in possession of the property in spite of the injunction order granted by the civil Court. In addition, in the presence of injunction order, the first respondent – Sub Inspector of Police is trying to disturb the petitioners' alleged possession. According to the learned counsel, unless there is an order of the civil Court directing the Station House Officer to provide police aid for implementation of the injunction order, the Station House Officer or the Sub Inspector of Police or other police officers cannot interfere with the possession of the petitioners at the instance of the respondents 2 and 3 and that the action of the first

respondent is illegal and without jurisdiction and therefore sought for a direction.

4. Heard learned counsel for the petitioners and learned Government Pleader for Home.

5. According to the petitioners, the land in an extent of Ac.2.31 cents in R.S.No.281 of Mogallu village, Palakoderu Mandal, West Godavari District, fell to their share in family partition between the petitioners and third respondent. Since the date of partition, the petitioners are in exclusive possession of the above said property. While so, the second respondent obtained an exparte injunction order during the vacation and now taking advantage of the injunction order and with the assistance of the first respondent they are trying to interfere with the petitioners' possession. According to the petitioners, it is also clear that no order of the civil Court was obtained by the second respondent seeking police aid. In the absence of any such order from the competent civil Court, the first respondent has no power to interfere with the possession of the petitioners, even in the presence of an order of exparte injunction in favour of the second respondent. If there is any dispute between the petitioners and the respondents 2 and 3 as to the possession that has to be decided by the civil Court and unless an order of the civil Court is passed directing the first respondent to provide police protection, it is not open to the first respondent to interfere with the civil disputes.

6. The writ petition is accordingly disposed of at the admission stage.

28.06.2004
Note: Furnish C.C in two days
B/o.
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To

1 The Sub-Inspector of Police, Palakonderu P.S.,
West Godavari District.

2. Two CCs to G.P. for Home, High Court of A.P., Hyderabad (OUT)
3. Two CD copies